



# ADS Chapter 157

## USAID Volunteer Activities Policy

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**Functional Series 100 – Agency Organization and Legal Affairs**  
**ADS 157 – USAID Volunteer Activities Policy**

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## ADS Chapter 157 – USAID Volunteer Activities Policy

### 157.1 OVERVIEW

Effective Date: 11/01/2008

On April 27, 2006, President Bush signed [Executive Order \(EO\) 13401: Responsibilities of Federal Departments and Agencies with Respect to Volunteer Community Service](#). This order requested that Federal Departments and Agencies strengthen their efforts to promote volunteer community service among Federal employees. In addition to **EO 13401**, President Clinton signed [EO 12988: Civil Justice Reform](#) on February 5, 1996, which specifically instructed agencies to encourage Federal attorneys to perform pro bono work. Pro bono legal services are performed free of charge and reflect a wide range of opportunities. (See **157.3**.)

Employment at USAID is an important form of public service; however, USAID recognizes the need to strengthen communities through volunteerism. **EOs 13401** and **12988** prompted USAID to establish policy directives and required procedures that would encourage and facilitate employees' efforts to volunteer. This would include U.S. Foreign Service Nationals and Third Country National Personal Services Contractors. The volunteer activities in which employees engage must be consistent with applicable Federal statutes and regulations governing conflicts of interest and outside activities, including, but not limited to, [18 U.S.C. 205](#) and the [Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR 2635](#).

The policy directives and required procedures described in this chapter will enhance USAID's implementation of **EO 13401** and **12988**. The valuable contributions already being made by Agency employees who volunteer their time, energy, and talents in support of volunteer activities should not be overlooked. This policy builds on the existing efforts by employees to further improve the quality of life in the communities where they live and work and to create an even greater sense of community involvement among USAID employees.

### 157.2 PRIMARY RESPONSIBILITIES

Effective Date: 11/01/2008

**a. Liaison for Volunteer Community Service, the Office of Human Resources** provides guidance to managers and supervisors on leave policy and alternative work schedules that may be available in connection with employees' volunteer activities, increases employee awareness of federally sponsored volunteer efforts, and circulates government policies or statements regarding volunteer services.

**b. The Mission Executive Officer** provides guidance to managers and supervisors on leave policy and alternative work schedules that may be available in connection with employees' volunteer activities, increases employee awareness of federally sponsored

volunteer efforts, and circulates government policies or statements regarding volunteer services.

**c.** The **Office of General Counsel (GC)** or the **Regional Legal Advisor (RLA)** answers questions, distributes information, and undertakes other appropriate activities in support of pro bono legal services performed by USAID employees. In addition, GC or the RLA conducts conflict of interest checks and ensures that the volunteer or pro bono services in which the employee would like to participate does not violate any statutory or regulatory requirements.

### **157.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES**

Effective Date: 11/01/2008

Volunteer activities are performed free of charge and reflect a wide range of opportunities. They include, but are not limited to, the provision of services to:

- Persons of limited financial means or who are otherwise disadvantaged; and
- Charitable, religious, professional, civic, community, governmental, health, and educational organizations.

**[NOTE:** This initiative is not intended to restrict the type of volunteer services in which employees may engage in their free time as long as the activities do not violate any statutory or regulatory restrictions.]

#### **157.3.1 Prior Consultation**

Effective Date: 11/01/2008

USAID employees interested in volunteer service do NOT have to consult with the Office of the General Counsel, Assistant General Counsel for Ethics and Administration Division (GC/EA) or the RLA before performing such services. However, conferring with the GC/EA or the RLA is encouraged because they can advise employees whether their volunteering presents a conflict of interest or otherwise violates any applicable statute or regulation. This is strongly recommended for overseas employees because there are regulatory restrictions ([3 FAM 4120](#)) when engaging in certain outside activities abroad that may apply to some volunteer activities.

**[NOTE:** The employee should consult any applicable regulations or policies, including the [ADS](#) and the [FAM](#), or Mission Orders, which might contain procedures and prohibitions relating to the performance of activities in a country of assignment. If a USAID employee has any questions regarding these matters, the employee should consult the GC/EA or his or her RLA.]

\*An asterisk and yellow highlight indicates that the adjacent material is new or substantively revised.

**\*157.3.2 Conflicts of Interest**  
Effective Date: 04/01/2011

USAID employees may not engage in volunteer service that creates, or appears to create, a conflict of interest with their work for USAID. A USAID employee must ensure that his or her volunteer service does not present a conflict of interest and does not otherwise violate any applicable statute or regulation.

Under the [Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635](#), a conflict of interest generally exists when the services would:

- Require the recusal of the employee from significant aspects of the employee's official duties, see [18 U.S.C. § 208](#) and [5 CFR § 2635.802\(b\)](#);
- Create the appearance that the employee's official duties were performed in a biased or less than impartial manner, see [5 CFR § 2635.502](#); or
- Create the appearance of an official sanction or endorsement, see [5 CFR § 2635.702\(b\)](#).

\*If an employee must file (U.S. Office of Government Ethics) [OGE 450, SF 278](#) (until December 31, 2011), or [OGE 278](#) (beginning January 1, 2012), he or she has a responsibility to disclose any volunteer activities and outside positions held in order to allow for USAID to conduct a conflict of interest check.

**157.3.3 Use of Official Position or Public Office**  
Effective Date: 11/01/2008

USAID employees who participate in volunteer activities may not indicate or represent themselves in any way to the public that they are acting on behalf of USAID or in their official capacity. Additionally, the Federal Standards of Ethical Conduct prohibit USAID employees from misusing their positions, such as endorsing an entity or using their public office for private gain (see [5 C.F.R. § 2635.702](#)).

A USAID employee may not use office letterhead, Agency or office business cards, or otherwise identify himself or herself as a USAID employee in any communication, correspondence, or pleading connected with volunteer or pro bono legal services. If the volunteer activity involves public speaking, writing, or teaching, the employee must not present themselves as representing USAID or the U.S. Government. (See [5 C.F.R. § 2635.807](#), [ADS 558](#), [3 FAM 4170](#)).

**[NOTE:** The incidental identification of an employee's position or office is not prohibited. For example, when an office phone number or street address is used as contact information.]

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**157.3.4 Use of Government Time**

Effective Date: 11/01/2008

USAID employees should seek volunteer opportunities that can be accomplished outside their scheduled work hours. At times, such activities may occur during work hours. Supervisors are therefore urged to be flexible and accommodate, when work requirements permit, the efforts of their employees to perform volunteer work.

For example, an employee whose volunteer activity takes place during the first hour of a workday or requires an extra hour at lunch, time should be allowed to make up the hour at the end of the day if it is not disruptive to normal business operations. Employees seeking to participate in volunteer activities during work hours may also be granted leave without pay, annual leave, or, in very limited circumstances, administrative leave (see **157.3.5**).

When considering an employee's requests for leave to engage in volunteer activities, supervisors must give proper attention to the effect of the employee's absence on office operations. Therefore, while this policy asks supervisors to be flexible when dealing with employees seeking to engage in volunteer activities, it also recognizes that supervisors must judge whether such accommodations would interfere with the operation of the office as a result of budgetary constraints, heavy workloads, or other factors. Supervisory approval may be rescinded, if necessary, to meet workload demands.

**[NOTE:** The decision to grant an employee's request to engage in volunteer activities, regardless of whether the activity takes place during scheduled work hours, must not be influenced by a supervisor's personal views regarding the merits of the activity or the organization.]

**157.3.5 Administrative Leave**

Effective Date: 02/18/2010

In limited circumstances, employees may be granted administrative leave for short periods of time by a supervisor to participate in volunteer activities. As a general rule, supervisors may grant up to three workdays of excused absence in a calendar year for employee participation in volunteer activities that are:

- Directly related to the Agency's mission;
- Officially sponsored or endorsed by the Agency;
- Enhance the professional development and/or skills of employees in their current positions; and/or

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- Determined to be in the interest of the Agency.

Requests for administrative leave in such cases must be made in writing and approved by the employee's supervisor in advance of the planned activity. Administrative leave should not be granted for volunteer activities that directly benefit an employee or those individuals with whom an employee has a personal relationship. (See [ADS 480.3.8.6\(e\)](#).)

### **157.3.6 Use of Office Equipment and Services and Nonpublic Information**

Effective Date: 11/01/2008

Employees must use U.S. Government property only for official business or as authorized by the Government (see [5 CFR § 2635.101\(b\)\(9\)](#) and [5 CFR § 2635.704\(a\)](#)). Employees are encouraged to seek further guidance on the use of Government property from USAID's Bureau for Management, Office of the Chief Information Officer (M/CIO) and the Bureau for Management, Office of Administrative Services (M/AS). The following uses of Government office and library equipment and facilities by USAID employees are authorized for volunteer activities:

- Uses that involve only negligible expense such as electricity, ink, toner, small amounts of paper, and ordinary wear and tear;
- Limited local telephone/fax calls to locations within USAID's general commuting area and calls that are charged to non-government accounts (for example, personal telephone credit cards); and
- Use of the Internet, in moderation, on personal time. With respect to electronic mail, it is preferable that the employee not use their usaid.gov email account for volunteer activities. If the employee must use their usaid.gov email account, the employee should make it clear that his or her email is not being used for official business.

Employees should contact their supervisor if there is any question whether an intended use involves a "negligible expense," "small amounts" of paper, or "limited" use of the phone lines. Such uses must not interfere with official business, and employees should protect and conserve Government property and use official time to perform official duties.

This policy does NOT authorize the use of commercial electronic databases such as Lexis or Westlaw when it is an extra cost to the Government. However, research using the library's books, CD-ROMs, or microfiche generally would be authorized because it involves only negligible expense to the Government.

This policy does not override statutes, rules, or regulations governing the use of specific types of Government property, such as electronic mail, and [5 CFR § 2635.704](#) (use of

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long-distance telephone services). Any employee who has questions about the application of this section to any particular situation should consult his or her supervisor.

When using Government property, employees must protect and conserve such property and use official time in an honest effort to perform official duties. (See [5 CFR § 2635.101\(b\)\(9\)](#), [5 CFR § 2635.704\(a\)](#), and [5 CFR § 2635.705\(a\)](#).)

Use of nonpublic information is restricted by law and regulation. (See [5 CFR § 2635.703](#).)

### **157.3.7 Use of Support Staff** Effective Date: 11/01/2008

Volunteer activities may not be assigned to, or otherwise required of, subordinate employees. For example, it is inappropriate for a supervisor who is collecting voluntary donations of food or clothing for a homeless shelter to ask an administrative assistant to inventory or otherwise organize the inventory. However, the administrative assistant may volunteer his or her time to assist with the collection.

### **157.3.8 Pro Bono Activities** Effective Date 11/01/2008

The legal community has a specialized term, pro bono, for its volunteer activities. Pro bono activities refer to legal services performed without monetary compensation. These activities include, but are not limited to, the provision of such services to:

- Persons of limited financial means or who are otherwise disadvantaged;
- Charitable, religious, professional, civic, community, governmental, health, and educational organizations; or
- Individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties, or public rights.

Employees providing legal services who engage in pro bono activities must meet the general requirements for volunteering. In addition, employees must abide by the subsections mentioned below.

An employee performing pro bono work must communicate to the client, any opposing parties, the court, or others involved in a pro bono case that the employee is acting in his or her individual capacity as a volunteer and not acting as a representative of, or on behalf of, USAID.

**[NOTE:** This initiative is not intended to restrict the type of pro bono services in which employees may engage in their free time as long as the activities do not violate any statutory or regulatory restrictions.]

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**157.3.8.1 Prior Consultation**

Effective Date: 11/01/2008

An employee seeking to engage in any pro bono legal service must consult with the GC/EA or his or her RLA prior to engaging in such work to ensure that the employee will not be violating any conflict of interest rules or that their desired pro bono work will not violate the restrictions of their position in any way.

[**NOTE:** In general, an employee may engage in pro bono legal service if the service does not violate any federal statute, rule, or regulation (included in the [ADS](#) and the [FAM](#)). Such restrictions include, but are not limited to, [5 CFR § 2635.705](#), the [Hatch Act](#), and other guidance on political activities.]

**157.3.8.2 Conflict of Interest**

Effective date: 11/01/2008

Prior to engaging in pro bono legal service, an employee must consult with the GC/EA or his or her RLA in order to ensure that the employee's service does not present a conflict of interest and does not otherwise violate any applicable statute or regulation. The GC/EA or the RLA will review the proposed pro bono legal service with the employee, and the employee will be responsible for providing the necessary information to the GC/EA or his or her RLA during this consultation process.

With limited exceptions, USAID employees are prohibited from providing pro bono legal representation or assistance before Federal and other judicial bodies or assemblies in any case in which the United States is a party or has a direct and substantial interest. (See [18 U.S.C. § 205](#).) This prohibition would encompass, for example, representation of a criminal defendant in Federal court or the representation of petitioners in asylum proceedings.

**157.3.8.3 Pro Bono Legal Service - Non-Representational Assistance**

Effective Date: 11/01/2008

If the legal services satisfy the prior approval requirements of **157.3.1** and do not present a conflict of interest addressed in **157.3.2**, USAID employees may provide pro bono assistance without compensation (for example, advice not involving appearances or communications prohibited by [18 U.S.C. § 205](#) or assistance in the filling out of forms for persons seeking government benefits) and may assist in the preparation of tax returns without compensation.

**157.3.8.4 Additional Considerations for Pro Bono Legal Service**

Effective Date: 11/01/2008

A USAID attorney should consider the following before agreeing to meet or accept a pro bono legal client:

\*An asterisk and yellow highlight indicates that the adjacent material is new or substantively revised.

- Retainer Agreement. Upon request, the GC/EA will provide a model retainer letter making it explicit to a pro bono legal client that the attorney is acting in his or her own individual capacity and not on behalf of USAID.
- Malpractice Coverage. USAID does not provide malpractice coverage for pro bono work. The attorney should ensure that the referring pro bono program or organization has a malpractice insurance policy that covers volunteer attorneys.

**[NOTE:** Generally, volunteer programs organized by the local bar association or the more established referral programs provide malpractice coverage. For employees based in USAID/Washington, the GC/EA will have information regarding which programs provide malpractice insurance coverage for volunteer attorneys. **Attorneys who choose to provide legal services without malpractice insurance coverage are acting at their own risk.]**

- Local Bar Association and Licensing Rules. USAID employees should review local (both host country and U.S. Department of State) bar association and professional licensing rules, including those regarding the unauthorized practice of law, that apply to pro bono legal service.

#### **157.3.8.5 Use of Legal Support Staff**

Effective Date: 11/01/2008

Pro bono legal activities may not be assigned to or otherwise required of subordinate employees. For example, it is inappropriate for a staff attorney who is handling a pro bono case to ask a paralegal for assistance with legal research for the case as part of the paralegal's official duties. However, the paralegal may volunteer his or her personal time to assist with a pro bono case. (See [5 CFR § 2635.705\(b\)](#).)

#### **157.3.9 Outside Political Activities**

Effective Date: 11/01/2008

Outside political activity by USAID employees must comply with the [Hatch Act](#) and [Hatch Act Reform Amendments of 1993](#) (see [5 U.S.C. 7321 et. seq.](#); [18 U.S.C. 602, 603, 606, 607](#); and [5 CFR 734](#)) and with any guidance or policy released by USAID. USAID's guidance is contained in ["Political Activity of USAID Employees"](#) (available only on the USAID intranet).

Overseas employees can find additional guidance in [3 FAM 4123.3](#).

**[NOTE:** If you have any questions in this area, please contact the GC/EA or your RLA.]

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**157.3.10 Employee Recognition**

Effective Date: 11/01/2008

To promote the work of colleagues as volunteers, USAID participates in the President's Volunteer Service Award (PVSA) program, an initiative of the President's Council on Service and Civic Participation. This program honors volunteers for their steady commitment of service to others.

Any adult who completes 100 or more hours of volunteer service at home or abroad within a 12 month period is eligible for the award. Nominations can be made by volunteers themselves, their supervisors, or by USAID's Liaison for Volunteer Community Service (VCS). The link to PVSA through VCS is:

**<http://wip.inside.usaid.gov/DCHA/VfP/VCS/recognition.htm>**. [Note: This link is only available on the USAID intranet.] For further information about volunteer community service and USAID, please email [USAID\\_Volunteers@usaid.gov](mailto:USAID_Volunteers@usaid.gov).

Each award package includes a note of congratulations from the President, a letter from the President's Council on Service and Civic Participation, a certificate of achievement, and a lapel pin. This award is a tangible way for sponsoring Federal agencies to recognize the efforts of their employee volunteers. For more information about the PVSA program, please visit <http://www.presidentialserviceawards.gov>, or visit the Volunteer Community Service link on USAID's intranet site, **<http://wip.inside.usaid.gov/DCHA/VfP/VCS/index.htm>**.

**157.3.11 DISCLAIMER**

Effective Date: 11/01/2008

This Policy Statement is intended only to encourage volunteer and/or pro bono legal activities by USAID employees and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

USAID will not be responsible in any manner or to any extent for any negligent or otherwise wrongful acts or omissions on the part of any employee engaged in any volunteer and/or pro bono legal activity.

While USAID encourages volunteer and/or pro bono legal activities by its employees, USAID neither exercises control over the services and activities of employees engaged in volunteer and/or pro bono legal service, nor does it control the time or location of any activity. Each employee is acting outside the scope of his or her employment whenever the employee participates, supports, or joins in any volunteer and/or pro bono legal activity.

\*An asterisk and yellow highlight indicates that the adjacent material is new or substantively revised.

**\*157.4 MANDATORY REFERENCES**

**157.4.1 External Mandatory References**

Effective Date: 11/01/2008

- a. [5 CFR § 2635.101\(b\)\(9\)](#)
- b. [5 CFR § 2635.502](#)
- c. [5 CFR § 2635.702](#)
- d. [5 CFR § 2635.703](#)
- e. [5 CFR § 2635.704\(a\)](#)
- f. [5 CFR § 2635.705](#)
- g. [5 CFR § 2635.802\(b\)](#)
- h. [Executive Order 13401](#)
- i. [Executive Order 12988](#)
- j. [3 FAM 4120](#)
- k. [The Hatch Act of 1939 and Hatch Act Reform Amendments of 1993](#) (see 5 U.S.C. 7321 et. seq.; 18 U.S.C. 602, 603, 606, 607; and 5 CFR 734)
- l. [18 U.S.C. § 205](#)
- m. [18 U.S.C. § 208](#)

**\*157.4.2 Internal Mandatory References**

Effective Date: 04/01/2011

- a. [ADS 558, Public Activity](#)

**\*157.4.3 Mandatory Forms**

Effective Date: 04/01/2011

- \*a.** [OGE Form 278](#)

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**157.5        ADDITIONAL HELP**  
Effective Date: 11/01/2008

There are no Additional Help documents for this ADS chapter.

**157.6        DEFINITIONS**  
Effective Date: 11/01/2008

**pro bono**

Uncompensated legal service performed for the public good. (Chapter 157)

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